

RECEIVED

2014 NOV 25 PM 1:35

IDAHO PUBLIC
UTILITIES COMMISSION

DONOVAN E. WALKER
Lead Counsel
dwalker@idahopower.com

November 25, 2014

VIA HAND DELIVERY

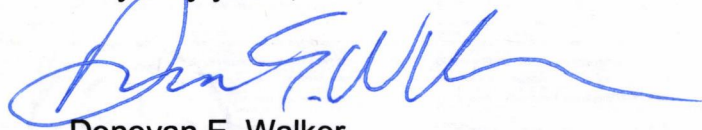
Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
Boise, Idaho 83702

Re: Case No. IPC-E-14-40
Idaho Power Company's Application for Approval of Firm Energy Sales
Agreement Amendments

Dear Ms. Jewell:

Enclosed for filing in the above matter please find an original and seven (7) copies of Idaho Power Company's Application for Approval of Firm Energy Sales Agreement Amendments.

Very truly yours,



Donovan E. Walker

DEW:csb
Enclosures

DONOVAN E. WALKER (ISB No. 5921)
Idaho Power Company
1221 West Idaho Street (83702)
P.O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-5317
Facsimile: (208) 388-6936
dwalker@idahopower.com

RECEIVED
2014 NOV 25 PM 1:35
IDAHO PUBLIC
UTILITIES COMMISSION

Attorney for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF IDAHO POWER COMPANY FOR)	CASE NO. IPC-E-14-40
APPROVAL OR REJECTION OF THE)	
AMENDMENTS TO VARIOUS FIRM)	APPLICATION FOR APPROVAL
ENERGY SALES AGREEMENTS)	OF FIRM ENERGY SALES
REGARDING THE MID-C MARKET INDEX.)	AGREEMENT AMENDMENTS
)	

Idaho Power Company ("Idaho Power"), in accordance with RP 52 and the applicable provisions of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), hereby respectfully applies to the Idaho Public Utilities Commission ("Commission") for an order approving amendments ("Amendments") to various Firm Energy Sales Agreements ("FESA") between Idaho Power and PURPA qualifying facilities ("QF"). These Amendments are virtually identical, and cover the same issue as those submitted and approved as part of the settlement stipulation ("Stipulation") in Case No. IPC-E-13-25, and the First Amendment to the FESA between Idaho Power and United Materials of Great Falls, Inc., Case No. IPC-E-14-21.

In support of this Application, Idaho Power represents as follows:

I. INTRODUCTION AND BACKGROUND

1. Idaho Power has executed three individual amendments to existing FESAs with three different PURPA QFs. The Amendments are attached hereto as Attachments 1 through 3 as indicated below. The below table lists the applicable QF party as well as the Commission case number in which each FESA was approved:

Attachment	QF Party/FESA Seller	FESA Approval Order	Case Number
1	Tiber Montana LLC	Order No. 29232	IPC-E-03-01
2	Idaho Water Resource Board	Order No. 29766	IPC-E-05-11
3	Idaho Water Resource Board	Order No. 29767	IPC-E-05-12

2. The FESAs contain 90/110 firmness requirements that apply a “Market Energy Cost” and/or “Mid-Columbia Market Energy Cost” price to energy deliveries that do not meet the 90/110 requirements. The FESAs define the Market Energy Cost with reference to the Dow Jones Mid-Columbia Index prices for non-firm energy. The FESA provisions for Surplus Energy and the Market Energy Cost generally correlate to Idaho Power’s Schedule 86, Cogeneration and Small Power Production Non-Firm Energy.

3. The Dow Jones Mid-Columbia Index was discontinued by the publisher as of October 2013. Case No. IPC-E-13-25 was initiated to address a replacement market index reference for the non-firm energy price reflected in Schedule 86. The parties to Case No. IPC-E-13-25 executed a Stipulation, approved by the Commission in Order No. 33053, which sets forth reference to the Intercontinental Exchange (“ICE”) Mid-Columbia Index prices, with a revised formula for calculating the non-firm price in

Schedule 86. In addition, the parties to Case No. IPC-E-13-25 agreed to amend the FESAs between Idaho Power and each intervening party to reference the ICE index using the same language as, and consistent with, the Schedule 86 language agreed upon in the Stipulation. In approving the Stipulation, the Commission stated, "We also find it reasonable to allow any additional existing PURPA QFs that currently have a contract with Idaho Power containing reference to the Dow Jones non-firm Mid-C electricity price index, should they so choose, to amend their respective agreements consistent with the terms of this Settlement Stipulation and similar to the contract amendments approved by this Order." Order No. 33053, p. 4.

II. THE AMENDMENTS

4. Idaho Power and each QF have agreed to amend the FESA to include, nearly word for word, the reference to the ICE index and revised formula that was adopted for Schedule 86 in Case No. IPC-E-13-25. The Amendments simply set forth, virtually verbatim, the provisions from Schedule 86 to define "Market Energy Cost" and/or "Mid-Columbia Market Energy Cost" as appropriate for each FESA. Pursuant to the parties' agreement, and pursuant to the FESA which requires both parties to agree upon a replacement index should the Dow Jones index be discontinued, an effective date of October 2013 for use of the ICE index and calculation referenced in the Amendments is requested. This provides for a switch to and use of the agreed upon ICE index from the time the Dow Jones index was discontinued. The Commission approved the October 2013 effective date in the same First Amendment to the FESA between Idaho Power and United Materials of Great Falls, Inc., Case No. IPC-E-14-21.

III. PROCEDURE

5. Idaho Power requests that the Commission approve the proposed Amendments upon Staff's review and without further process. Staff previously recommended, "Based on the Commission's determination of reasonableness in IPC-E-13-25 to the definition of 'Market Energy Cost' and change in index, and because the Commission already deemed it reasonable for 'any additional existing PURPA QFs' to amend their respective agreements with similar terms, Staff further recommends that the Commission approve the First Amendment without further process." Staff Decision Memorandum, p. 3, Case No. IPC-E-14-21.

6. Alternatively, should the Commission determine that further process is required, Idaho Power believes that a hearing is not necessary to consider the issues presented herein and respectfully requests that this Application be processed under Modified Procedure; i.e., by written submissions rather than by hearing. RP 201, *et seq.*

IV. COMMUNICATIONS AND SERVICE OF PLEADINGS

7. Communications and service of pleadings, exhibits, orders, and other documents relating to this proceeding should be sent to the following:


Donovan E. Walker
Lead Counsel
Regulatory Dockets
Idaho Power Company
1221 West Idaho Street
P.O. Box 70
Boise, Idaho 83707
dwalker@idahopower.com
dockets@idahopower.com

Randy C. Allphin
Energy Contract Administrator
Idaho Power Company
1221 West Idaho Street
P.O. Box 70
Boise, Idaho 83707
rallphin@idahopower.com

V. REQUEST FOR RELIEF

8. Idaho Power respectfully requests that the Commission issue an order accepting the Amendments to the various Firm Energy Sales Agreements submitted herewith without change or condition

Respectfully submitted this 25th day of November 2014.



DONOVAN E. WALKER
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of November 2014 I served a true and correct copy of the within and foregoing APPLICATION FOR APPROVAL OF FIRM ENERGY SALES AGREEMENT AMENDMENTS upon the following named parties by the method indicated below, and addressed to the following:

Tiber Montana LLC (Tiber Dam)

Ted S. Sorenson
Tiber Montana LLC
5203 South 11th East
Idaho Falls, Idaho 83404

☐ Hand Delivered
☒ U.S. Mail
☐ Overnight Mail
☐ FAX
☒ Email ted@tsorenson.net

**Idaho Water Resource Board
(Pristine Springs)**

Brian W. Patton, P.E., Chief
Pristine Springs
Idaho Water Resource Board
322 East Front Street
Boise, Idaho 83720

☐ Hand Delivered
☒ U.S. Mail
☐ Overnight Mail
☐ FAX
☒ Email Brian.Patton@idwr.idaho.gov
Stuart.VanGreuningen@idwr.idaho.gov

**Idaho Water Resource Board
(Pristine Springs #3)**

Brian W. Patton, P.E., Chief
Pristine Springs #3
Idaho Water Resource Board
322 East Front Street
Boise, Idaho 83720

☐ Hand Delivered
☒ U.S. Mail
☐ Overnight Mail
☐ FAX
☒ Email Brian.Patton@idwr.idaho.gov
Stuart.VanGreuningen@idwr.idaho.gov


Christa Beary, Legal Assistant

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION
CASE NO. IPC-E-14-40

IDAHO POWER COMPANY

ATTACHMENT 1

**FIRST AMENDMENT
TO THE
FIRM ENERGY SALES AGREEMENT
BETWEEN
IDAHO POWER COMPANY
AND
TIBER MONTANA LLC**

This First Amendment of the Firm Energy Sales Agreement ("First Amendment") is entered into on this 14 day of Oct, 2014 by and between Idaho Power Company, an Idaho corporation ("Idaho Power"), and Tiber Montana LLC, ("Tiber Montana LLC" or "Seller") (individually a "Party" and collectively the "Parties").

WHEREAS, Idaho Power and Seller entered into a Firm Energy Sales Agreement on February 3, 2003 (the "Agreement") for the purchase and sale of energy produced by the Seller's facility that was approved by the Idaho Public Utilities Commission ("Idaho PUC") in Order No. 29232 on April 28, 2003;

WHEREAS, On September 13, 2013, the Publisher of the Dow Jones and Platts indices provided notice to Idaho Power that it was discontinuing publication of the Dow Jones non-firm index and transitioning to the Platts non-firm index and since such transition, the Platts index has reported zero volumes;

WHEREAS, Idaho Power and other parties to Docket No. IPC-E-13-25 entered into a Settlement Stipulation on March 14, 2014 ("Stipulation") that changed the definition of Mid-Columbia Market Energy Cost in Schedule 86 to replace the Dow Jones non-firm index with the Intercontinental Exchange firm index for purposes of calculating market energy cost, and this Stipulation was approved by the Idaho PUC in Order No. 33053 on June 10, 2014;

WHEREAS, the Idaho PUC's order approving the Stipulation also approved amendments replacing the Dow Jones non-firm index with the Intercontinental Exchange firm index in contracts of parties to Docket No. IPC-E-13-25, and found it to be reasonable to allow existing PURPA qualifying facilities that currently have a contract with Idaho Power containing reference to the Dow Jones non-firm index to amend their contracts consistent with the terms of the Stipulation; and

WHEREAS, Seller and Idaho Power desire to amend the definition of Surplus Energy Price in this Agreement consistent with the Stipulation;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereto agree as follows:

1. Incorporation of Recitals. The above-stated recitals are incorporated into and made a part of this Agreement by this reference to the same extent as if these recitals were set forth in full at this point.

2. **Definitions.** Article 7, section 7.2 shall be deleted in its entirety and the following section shall be substituted in its stead:

7.2 “Surplus Energy Price” – Eighty five percent (85%) of 82.4% of the monthly arithmetic average of each day’s Intercontinental Exchange (“ICE”) daily firm Mid-C Peak Avg and Mid-C Off-Peak Avg index prices. Each day’s index prices will reflect the relative proportions of peak hours and off-peak hours in the month as follows:

Heavy Load (HL) Hours: The daily hours from hour ending 0700-2200 Mountain Time, (16 hours) *excluding* all hours on all Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

Light Load (LL) Hours: The daily hours from hour ending 2300-0600 Mountain Time (8 hours), plus all other hours on all Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

The actual Mid-Columbia Market Energy Cost calculation being:

$$0.85 * [.824 * (\sum_{x=1}^n \{(\text{ICE Mid-C Peak Avg}_x * \text{HL hours for day}) + (\text{ICE Mid-C Off-Peak Avg}_x * \text{LL hours for day})\} / (n * 24))]$$

where n = number of days in the month

If the ICE Mid-C Index prices are not reported for a particular day or days, prices derived from the respective averages of HL and LL prices for the immediately preceding and following reporting periods or days shall be substituted into the formula stated in this definition and shall therefore be multiplied by the appropriate respective numbers of HL and LL Hours for such particular day or days with the result that each hour in such month shall have a related price in such formula. If the day for which prices are not reported has in it only LL Hours (for example a Sunday), the respective averages shall use only prices reported for LL hours in the immediately preceding and following reporting periods or days. If the day for which prices are not reported is a Saturday or Monday or is adjacent on the calendar to a holiday, the prices used for HL Hours shall be those for HL hours in the nearest (forward or backward) reporting periods or days for which HL prices are reported.

If the ICE Mid-C Index reporting is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the ICE Mid-C Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.

3. **Commission Approval.** The obligations of the Parties under this First Amendment are subject to the Idaho PUC’s approval of this First Amendment and such approval being upheld on appeal, if any, by a court of competent jurisdiction. The Parties will submit this First Amendment to the Idaho PUC and recommend approval in its entirety pursuant to RP 274.

4. **Effect of Amendment.** Except as expressly amended by this First Amendment, the Agreement shall remain in full force and effect.

5. **Capitalized Terms.** All capitalized terms used in this First Amendment and not defined herein shall have the same meaning as used in the Agreement.

6. **Scope of Amendment.** This First Amendment shall be binding upon and inure to the benefit of the Parties hereto, and their respective heirs, executors, administrators, successors, and assigns, who are obligated to take any action which may be necessary or proper to carry out the purpose and intent thereof.

7. **Authority.** Each Party represents and warrants that (i) it is validly existing and in good standing in the state in which it is organized, (ii) it is the proper party to amend the Agreement, and (iii) it has the requisite authority to execute this First Amendment.

8. **Counterparts.** This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be duly executed as of the date above written.

TIBER MONTANA LLC

By: _____

Name: _____

Title: _____

IDAHO POWER COMPANY

By: _____

Name: _____

Title: _____

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION
CASE NO. IPC-E-14-40

IDAHO POWER COMPANY

ATTACHMENT 2

**FIRST AMENDMENT
TO THE
FIRM ENERGY SALES AGREEMENT
BETWEEN
IDAHO POWER COMPANY
AND THE
IDAHO WATER RESOURCE BOARD**

This First Amendment of the Firm Energy Sales Agreement ("First Amendment") is entered into on this 19 day of October, 2014 by and between Idaho Power Company, an Idaho corporation ("Idaho Power"), and the Idaho Water Resource Board, a governmental entity of the State of Idaho ("IWRB" or "Seller") (individually a "Party" and collectively the "Parties").

WHEREAS, Idaho Power and Pristine Springs, Inc. ("Pristine Springs") entered into a Firm Energy Sales Agreement on February 18, 2005 (the "Original Agreement") for the purchase and sale of energy produced by the Seller's facility that was approved by the Idaho Public Utilities Commission ("Idaho PUC") in Order No. 29766 on April 25, 2005;

WHEREAS, Pristine Springs and IWRB entered into an Assignment and Assumption of Agreements, Permits and Licenses on April 4, 2008, providing for, among other things, assignment of all rights, titles, and interest (the "Assignment Transaction") of Pristine Springs under the Original Agreement to IWRB (the Original Agreement is referred to in this First Amendment as the "Agreement");

WHEREAS, On September 13, 2013, the Publisher of the Dow Jones and Platts indices provided notice to Idaho Power that it was discontinuing publication of the Dow Jones non-firm index and transitioning to the Platts non-firm index and since such transition, the Platts index has reported zero volumes;

WHEREAS, Idaho Power and other parties to Docket No. IPC-E-13-25 entered into a Settlement Stipulation on May 9, 2014 ("Stipulation") that changed the definition of Mid-Columbia Market Energy Cost in Schedule 86 to replace the Dow Jones non-firm index with the Intercontinental Exchange firm index for purposes of calculating market energy cost, and this Stipulation was approved by the Idaho PUC in Order No. 33053 on June 10, 2014;

WHEREAS, the Idaho PUC's order approving the Stipulation also approved amendments replacing the Dow Jones non-firm index with the Intercontinental Exchange firm index in contracts of parties to Docket No. IPC-E-13-25, and found it to be reasonable to allow existing PURPA qualifying facilities that currently have a contract with Idaho Power containing reference to the Dow Jones non-firm index to amend their contracts consistent with the terms of the Stipulation; and

WHEREAS, Seller and Idaho Power desire to amend the definition of Market Energy Cost in this Agreement consistent with the Stipulation;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereto agree as follows:

1. **Incorporation of Recitals.** The above-stated recitals are incorporated into and made a part of this Agreement by this reference to the same extent as if these recitals were set forth in full at this point.

2. **Definitions.** Article 1, section 1.11 shall be deleted in its entirety and the following section shall be substituted in its stead:

- 1.11 “Market Energy Cost” – Eighty-five percent (85%) of (82.4% of the monthly arithmetic average of each day’s Intercontinental Exchange (“ICE”) daily firm Mid-C Peak Avg and Mid-C Off-Peak Avg index prices). Each day’s index prices will reflect the relative proportions of peak hours and off-peak hours in the month as follows:

Heavy Load (HL) Hours: The daily hours from hour ending 0700-2200 Mountain Time, (16 hours) *excluding* all hours on all Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

Light Load (LL) Hours: The daily hours from hour ending 2300-0600 Mountain Time (8 hours), plus all other hours on all Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

The actual Market Energy Cost calculation being:

$$0.85 * [.824 * (\sum_{x=1}^n \{(\text{ICE Mid-C Peak Avg}_x * \text{HL hours for day}) + (\text{ICE Mid-C Off-Peak Avg}_x * \text{LL hours for day})\} / (n*24))]$$

where n = number of days in the month

If the ICE Mid-C Index prices are not reported for a particular day or days, prices derived from the respective averages of HL and LL prices for the immediately preceding and following reporting periods or days shall be substituted into the formula stated in this definition and shall therefore be multiplied by the appropriate respective numbers of HL and LL Hours for such particular day or days with the result that each hour in such month shall have a related price in such formula. If the day for which prices are not reported has in it only LL Hours (for example a Sunday), the respective averages shall use only prices reported for LL hours in the immediately preceding and following reporting periods or days. If the day for which prices are not reported is a Saturday or Monday or is adjacent on the calendar to a holiday, the prices used for HL Hours shall be those for HL hours in the nearest (forward or backward) reporting periods or days for which HL prices are reported.

If the ICE Mid-C Index reporting is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the ICE Mid-C Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.

3. Commission Approval. The obligations of the Parties under this First Amendment are subject to the Idaho PUC's approval of this First Amendment and such approval being upheld on appeal, if any, by a court of competent jurisdiction. The Parties will submit this First Amendment to the Idaho PUC and recommend approval in its entirety pursuant to RP 274.

4. Substitution of Party. Upon Commission approval of this First Amendment, the Parties agree that any reference to Seller in the Agreement shall refer to IWRB. All rights, duties, privileges, and obligations existing under the Agreement and this First Amendment shall transfer and shall be deemed to have transferred as of the effective date of the Assignment Transaction from Pristine Springs to IWRB. IWRB hereby assumes all obligations, liabilities, and claims that exist or may exist under the Agreement and this First Amendment as if it were the original Seller to said agreements.

4.1. IWRB assumes all obligations and liabilities of Pristine Springs by virtue of this substitution of parties. IWRB also warrants and represents that it is in a position to fully perform any and all duties and obligations to Idaho Power under the Agreement and this First Amendment and agrees to be bound by and perform in accordance with the terms and conditions of the Agreement and this First Amendment.

4.2. Idaho Power hereby consents to the substitution of parties as described herein.

5. Notices. Notice to Seller as described in Article XXIX of the Agreement shall hereafter be provided, in accordance with the Agreement, to:

To Seller: Idaho Water Resource Board
c/o Brian W. Patton, P.E., Chief
322 East Front Street
Boise, Idaho 83720

6. Effect of Amendment. Except as expressly amended by this First Amendment, the Agreement shall remain in full force and effect.

7. Capitalized Terms. All capitalized terms used in this First Amendment and not defined herein shall have the same meaning as used in the Agreement.

8. Scope of Amendment. This First Amendment shall be binding upon and inure to the benefit of the Parties hereto, and their respective heirs, executors, administrators, successors, and assigns, who are obligated to take any action which may be necessary or proper to carry out the purpose and intent thereof.

9. **Authority.** Each Party represents and warrants that (i) it is validly existing and in good standing in the state in which it is organized, (ii) it is the proper party to amend the Agreement, and (iii) it has the requisite authority to execute this First Amendment.

10. **Counterparts.** This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be duly executed as of the date above written.

IDAHO WATER RESOURCE BOARD

By: 

Name: BRIAN PATTON

Title: EXECUTIVE OFFICER

IDAHO POWER COMPANY

By: 

Name: LISA GROW

Title: SVP Power Supply

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION
CASE NO. IPC-E-14-40

IDAHO POWER COMPANY

ATTACHMENT 3

**FIRST AMENDMENT
TO THE
FIRM ENERGY SALES AGREEMENT
BETWEEN
IDAHO POWER COMPANY
AND THE
IDAHO WATER RESOURCE BOARD**

This First Amendment of the Firm Energy Sales Agreement ("First Amendment") is entered into on this 29 day of October 2014 by and between Idaho Power Company, an Idaho corporation ("Idaho Power"), and the Idaho Water Resource Board, a governmental entity of the State of Idaho ("IWRB" or "Seller") (individually a "Party" and collectively the "Parties").

WHEREAS, Idaho Power and Pristine Springs, Inc. ("Pristine Springs") entered into a Firm Energy Sales Agreement on February 18, 2005 (the "Original Agreement") for the purchase and sale of energy produced by the Seller's facility that was approved by the Idaho Public Utilities Commission ("Idaho PUC") in Order No. 29767 on April 25, 2005;

WHEREAS, Pristine Springs and IWRB entered into an Assignment and Assumption of Agreements, Permits and Licenses on April 4, 2008, providing for, among other things, assignment of all rights, titles, and interest (the "Assignment Transaction") of Pristine Springs under the Original Agreement to IWRB (the Original Agreement is referred to in this First Amendment as the "Agreement");

WHEREAS, On September 13, 2013, the Publisher of the Dow Jones and Platts indices provided notice to Idaho Power that it was discontinuing publication of the Dow Jones non-firm index and transitioning to the Platts non-firm index and since such transition, the Platts index has reported zero volumes;

WHEREAS, Idaho Power and other parties to Docket No. IPC-E-13-25 entered into a Settlement Stipulation on May 9, 2014 ("Stipulation") that changed the definition of Mid-Columbia Market Energy Cost in Schedule 86 to replace the Dow Jones non-firm index with the Intercontinental Exchange firm index for purposes of calculating market energy cost, and this Stipulation was approved by the Idaho PUC in Order No. 33053 on June 10, 2014;

WHEREAS, the Idaho PUC's order approving the Stipulation also approved amendments replacing the Dow Jones non-firm index with the Intercontinental Exchange firm index in contracts of parties to Docket No. IPC-E-13-25, and found it to be reasonable to allow existing PURPA qualifying facilities that currently have a contract with Idaho Power containing reference to the Dow Jones non-firm index to amend their contracts consistent with the terms of the Stipulation; and

WHEREAS, Seller and Idaho Power desire to amend the definition of Market Energy Cost in this Agreement consistent with the Stipulation;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereto agree as follows:

1. **Incorporation of Recitals.** The above-stated recitals are incorporated into and made a part of this Agreement by this reference to the same extent as if these recitals were set forth in full at this point.

2. **Definitions.** Article 1, section 1.11 shall be deleted in its entirety and the following section shall be substituted in its stead:

1.11 “Market Energy Cost” – Eighty-five percent (85%) of (82.4% of the monthly arithmetic average of each day’s Intercontinental Exchange (“ICE”) daily firm Mid-C Peak Avg and Mid-C Off-Peak Avg index prices). Each day’s index prices will reflect the relative proportions of peak hours and off-peak hours in the month as follows:

Heavy Load (HL) Hours: The daily hours from hour ending 0700-2200 Mountain Time, (16 hours) *excluding* all hours on all Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

Light Load (LL) Hours: The daily hours from hour ending 2300-0600 Mountain Time (8 hours), plus all other hours on all Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

The actual Market Energy Cost calculation being:

$$0.85 * [.824 * (\sum_{x=1}^n \{(\text{ICE Mid-C Peak Avg}_x * \text{HL hours for day}) + (\text{ICE Mid-C Off-Peak Avg}_x * \text{LL hours for day})\} / (n*24))]$$

where n = number of days in the month

If the ICE Mid-C Index prices are not reported for a particular day or days, prices derived from the respective averages of HL and LL prices for the immediately preceding and following reporting periods or days shall be substituted into the formula stated in this definition and shall therefore be multiplied by the appropriate respective numbers of HL and LL Hours for such particular day or days with the result that each hour in such month shall have a related price in such formula. If the day for which prices are not reported has in it only LL Hours (for example a Sunday), the respective averages shall use only prices reported for LL hours in the immediately preceding and following reporting periods or days. If the day for which prices are not reported is a Saturday or Monday or is adjacent on the calendar to a holiday, the prices used for HL Hours shall be those for HL hours in the nearest (forward or backward) reporting periods or days for which HL prices are reported.

If the ICE Mid-C Index reporting is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the ICE Mid-C Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.

3. Commission Approval. The obligations of the Parties under this First Amendment are subject to the Idaho PUC's approval of this First Amendment and such approval being upheld on appeal, if any, by a court of competent jurisdiction. The Parties will submit this First Amendment to the Idaho PUC and recommend approval in its entirety pursuant to RP 274.

4. Substitution of Party. Upon Commission approval of this First Amendment, the Parties agree that any reference to Seller in the Agreement shall refer to IWRB. All rights, duties, privileges, and obligations existing under the Agreement and this First Amendment shall transfer and shall be deemed to have transferred as of the effective date of the Assignment Transaction from Pristine Springs to IWRB. IWRB hereby assumes all obligations, liabilities, and claims that exist or may exist under the Agreement and this First Amendment as if it were the original Seller to said agreements.

4.1. IWRB assumes all obligations and liabilities of Pristine Springs by virtue of this substitution of parties. IWRB also warrants and represents that it is in a position to fully perform any and all duties and obligations to Idaho Power under the Agreement and this First Amendment and agrees to be bound by and perform in accordance with the terms and conditions of the Agreement and this First Amendment.

4.2. Idaho Power hereby consents to the substitution of parties as described herein.

5. Notices. Notice to Seller as described in Article XXVIII of the Agreement shall hereafter be provided, in accordance with the Agreement, to:

To Seller: Idaho Water Resource Board
c/o Brian W. Patton, P.E., Chief
322 East Front Street
Boise, Idaho 83720

6. Effect of Amendment. Except as expressly amended by this First Amendment, the Agreement shall remain in full force and effect.

7. Capitalized Terms. All capitalized terms used in this First Amendment and not defined herein shall have the same meaning as used in the Agreement.

8. Scope of Amendment. This First Amendment shall be binding upon and inure to the benefit of the Parties hereto, and their respective heirs, executors, administrators, successors, and assigns, who are obligated to take any action which may be necessary or proper to carry out the purpose and intent thereof.

9. **Authority.** Each Party represents and warrants that (i) it is validly existing and in good standing in the state in which it is organized, (ii) it is the proper party to amend the Agreement, and (iii) it has the requisite authority to execute this First Amendment.

10. **Counterparts.** This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be duly executed as of the date above written.

IDAHO WATER RESOURCE BOARD

By: B. Patton

Name: BRIAN PATTON

Title: EXECUTIVE OFFICER

IDAHO POWER COMPANY

By: Lisa Grow

Name: Lisa Grow

Title: SVP Power Supply